

**COMMISSION FOR MENTAL HEALTH,
DEVELOPMENTAL DISABILITIES AND
SUBSTANCE ABUSE SERVICES**

Commission Minutes

**Double Tree Hotel
1701 Hillsborough Street
Raleigh, NC 27605**

Thursday, February 28, 2013

Attending:

Dr. Greg Olley, James R. Bowman, Amie T. Brendle, Dr. Richard Brunstetter, Dr. John S. Carbone, Roger L. Dillard, Dr. James W. Finch, Dr. Tyehimba A. Hunt-Harrison, Michael F. Maybee, Nancy E. Moore, Beverly M. Morrow, Kevin P. Oliver, John Owen, Pamela Poteat, Elizabeth Ramos, Dr. Marian S. Spencer, Dr. Peggy S. Terhune, Don Trobaugh, Carol C. Vale, Linda Warden

Excused Members:

Ann Shaw, Dr. Diana J. Antonacci, R. Michael Grannis, Phillip A. Mooring, Frank Edwards

Division Staff:

Jim Jarrard, Steven E. Hairston, W. Denise Baker, Glenda Stokes, Andrea Borden

Others:

Eric Gabriel, J. Luckey Welsh, Mike Vilario

Call to Order:

Dr. Greg Olley, Chairman, NC Commission for Mental Health, Developmental Disabilities and Substance Abuse Services (Commission) called the meeting to order at 9:45a.m. He asked for a moment of reflection, welcomed everyone to the meeting, and reviewed the ethics reminder.

Approval of Minutes:

Dr. Olley asked if there were any comments or corrections to the minutes; there were none. He then called for a motion for the minutes to be approved.

Upon motion, second and unanimous vote, the Commission approved the November 15, 2012 minutes as submitted.

Commission Chairman's Report

Dr. Olley informed the Commission that he had received Dr. Ranota T. Hall's resignation from the Commission. Dr. Olley reminded the Commission of the presentation by SpringBrook Behavioral Healthcare (SpringBrook) during its May 24, 2012 meeting. SpringBrook, a Psychiatric Residential Treatment Facility (PRTF) located in South Carolina, had requested a waiver of Rule 10A NCAC 27G .1902, *Staff*. However, the Commission was without authority to act on the request absent agreement by the Division of Medical Assistance (DMA). Specifically, SpringBrook is bound by its contract with DMA to comply with North Carolina rules governing PRTFs and the Commission was without authority to waive a provision of the contract between DMA and SpringBrook. On February 14, 2013, DMA notified the Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH/DD/SAS) that it had approved

the request and the matter was now resolved. Dr. Olley informed the Commission that he had written a letter to Dr. Aldona Z. Vos, Secretary, NC Department of Health and Human Services (DHHS), inviting her to attend a Commission meeting in the near future. W. Denise Baker, Team Leader, Division Affairs Team, DMH/DD/SAS, stated that Secretary Vos's schedule precluded her attendance at this meeting and that Secretary Vos had forwarded the invitation to Carol Steckel, Director, DMA, asking that she attend in her stead. However, Ms. Steckel's schedule precluded her attendance also. Both have been provided a copy of the Commission's 2013 calendar should they be able to attend a Commission meeting at a later date.

Dr. Olley referenced the letter submitted by Dr. Ureh Lekwauwa, Medical Director, DMH/DD/SAS, regarding the proposed amendment of Rule 10A NCAC 27G .1903, *Operations, PRTFs*. DMH/DD/SAS had proposed amending this rule to permit an increase in the number of children served in a PRTF Unit; the basis for the request no longer exists and plans to amend this rule have been withdrawn.

Director's Report - DSOHF

J. Luckey Welsh, Director, NC Division of State Operated Healthcare Facilities (DSOHF), began his Director's Report with an update on the topics below:

Mr. Welsh stated that the hospital was nearing completion. It was supposed to have been completed November 2012; the completion day now approximates June 2013 with a likely move in date of late Summer/early Fall 2013. Mr. Welsh issued an invitation for the Commission to visit the site, and perhaps convene a meeting there, once the facility is open.

Broughton Hospital remains under construction; it is scheduled to open late 2014. Mr. Welsh further stated that the NC General Assembly's Health and Human Services subcommittee asked DSOHF to explore the possibility of creating a new region/catchment area (e.g., south central region) in the state as well as the possibility of constructing a new psychiatric hospital in that area. Mr. Welsh stated that a report addressing this option is due to the legislature April 1, 2013; the report will identify options as well as address how construction of a new region and new hospital would impact existing hospitals, emergency room wait times, and patient travel time. Mr. Welsh clarified that, ultimately, the General Assembly will decide whether and where to establish a new catchment area or erect a new hospital.

Mr. Welsh received the following comments and questions from the Commission:

- Dr. Olley questioned the impetus for the location of the potential new catchment area. Mr. Welsh expressed uncertainty regarding the exact reason for that potential site but commented that geographical distances may have been one reason for the decision.
- Mr. John Owen opined that another hospital may be needed but added that additional study and budgetary increases will be required to implement the plan. Mr. Welsh noted that there is an ongoing debate about whether to devote additional monies to the hospital or community settings; he opined that additional monies should be put in both.

Mr. Welsh then provided an update on the following:

- Just Culture Program which is designed to increase reporting of inappropriate behavior because of fair/just treatment and thereby increase the quality of care provided to residents.
- Biannual Management System which would provide monthly reports that reflect "what we do (i.e., care for people) with what we have (i.e., monies)".
- Potential Budgetary Revisions – which would allow management to look at staffing levels and make needed adjustments designed to improve efficiency, decrease costs, and increase quality.

Mr. Welsh responded to the following comments/questions from Commission members:

- Ms. Beverly Morrow asked what was in place for employees at state facilities as it relates to understanding and being aware of different cultures and religious beliefs. Mr. Welsh stated that each of the facilities has a cultural competency orientation for employees. He added that DSOHF has used the Area Health Education Centers (AHEC) to provide training to direct care staff and is constantly looking for ways to consistently and positively impact awareness of and respect for cultural differences.
- Mr. Michael Maybee commented on the Olmstead decision and questioned whether, in light of things happening nationwide, there is a need for a separate Division like DSOHF. Mr. Welsh responded affirmatively. Mr. Maybee then asked if the decision stemmed from the deaths which had occurred in the hospital settings prior to Mr. Welsh's tenure as director. Mr. Welsh noted that the decision to create DSOHF as a separate Division, rather than allow it to remain a Section within DMH/DD/SAS was made by Governor Beverly Purdue and Secretary Lanier Cansler prior to his employment as Director of DSOHF. Mr. Welsh noted that the demands, and the expertise needed to address them, differ in community versus hospital settings. Mr. Owen agreed that there are differing demands between community and inpatient mental health settings. Mr. Owen added there was a need for hospital beds in smaller rural areas and that is why he felt the separation of the hospitals was justifiable.

Mr. Welsh thanked the members of the Commission for their service to the State and dedication to addressing the needs of recipients of mh/dd/sa services.

Director's Report – DMH/DD/SAS

Jim Jarrard, Acting Director, DMH/DD/SAS, gave the following brief report.

Mr. Jarrard stated that there is a new leadership team in the Adams Building; the Adams building houses the Secretary, DHHS, as well as staff of several DHHS Administrative Offices. Mr. Jarrard also stated that Carol Steckel has been appointed Director, DMA. He informed the Commission that, in light of Beth Melcher's departure, he now reports to Ms. Steckel. Mr. Jarrard stated that Ms. Steckel acknowledges that DMA and DMH/DD/SAS are separate divisions and each will continue to function as such in their respective areas of expertise with DMH/DD/SAS providing expertise in the areas of mental health, developmental disabilities and substance abuse services.

Mr. Jarrard stated that the National Association of State Mental Health Program Directors developed a workbook for states to examine how a State might offer leadership in a crisis, especially those crises involving a need for mental health intervention. Mr. Jarrard formed a group of mental health specialists, including psychiatrists, psychologists, professors, etc., to discuss the workbook; the group recently held its first meeting. The goals are to develop a new set of credentials for individuals who can then be deployed to provide mental interventions in the midst of a crisis and to identify experts who could intervene should a crisis like that in Connecticut occur.

Mr. Jarrard received the following questions and comments from the Commission regarding the meeting of the mental health specialists:

- Mr. Owen questioned whether there were any consumers in attendance. Mr. Jarrard responded that there were not but agreed to take the need for same under advisement.
- Dr. James Finch noted that the Red Cross already has programs in place and asked if there was a Red Cross representative at the meeting. Mr. Jarrard responded affirmatively.

Mr. Jarrard stated that on March 27, 2013 the Division will be convening a one day recovery summit in Winston-Salem, NC. The purpose of it being in Winston-Salem is to provide a more centralized location for the meeting to help with transportation costs to permit greater attendance by consumers. Mr. Jarrard also stated that one purpose of the summit is to celebrate the new and renewed interest in the capacity of consumers to be able to work with, and provide assistance to, the Division.

Mr. Jarrard stated that implementation of the Department of Justice (DOJ) settlement is continuing. He indicated that Certified Peer Support Specialists have been speaking with adults in the Adult Care Homes (ACH) to discuss their options in light of the settlement agreement. He noted that the Peer Support Specialists are not the equivalent of the Paraprofessionals as used in the past. The Division does have a process whereby individuals could apply for residency in an ACH through a PASRR process which includes additional questions to allow for screening prior to entrance in an ACH. This is a process that has been used with nursing facilities many years. Mr. Jarrard stated that there are two levels. Mr. Jarrard stated that Division received about three hundred applications in the month of February. Trainings on the use of the PASRR tool are being held. Mr. Jarrard also stated that Sandee Resnick, Team Leader, Accountability Team, DMH/DD/SAS is in charge of helping the transition process at the LME/MCO level. The LME/MCOS are in the process of hiring individuals who will work to facilitate transition of persons moving through this process. Ms. Resnick will help ensure that appropriate plans are being written for individuals. Mr. Jarrard stated that there is an evidence-based supported employment plan for persons with mental illness.

Mr. Jarrard received the following questions and comments regarding the DOJ settlement:

- Mr. Owen stated that individuals suffering from Alzheimer's deserve consideration regarding whether home placement is still possible because it is also something that affects the mind. Mr. Jarrard responded that Alzheimer's disease is not included in the settlement; efforts must be true to the terms of the agreement.
- Ms. Anna Cunningham asked one goal is to avoid further litigation. Mr. Jarrard stated they were getting adequate funding from the state in order to carry out the eight years of the DOJ settlement. Mr. Jarrard stated that he did not think this would make them immune to further interventions; however, he stated that it would be incorrect of him to say that they have the resources to be able to address each of the potential needs that may arise.
- Ms. Linda Warden asked if, while screening for mental health issues, they also screen for substance abuse disorders. Mr. Jarrard stated that they were not; rather the screening is for severe and persistent mental illness (SPMI).
- Ms. Morrow asked what will be in place to help the individuals who are not able to live independently. Mr. Jarrard stated that the LME/MCOs are not to ignore the needs of those who do not fit into the DOJ population.
- Ms. Cunningham questioned how a reduction in Block Grant monies would impact the system. Mr. Jarrard responded that staff involved in the provision of substance abuse services would work with those who receive Block Grant funding. The questions are whether to decrease funding for all services a little or to fully fund some; Mr. Jarrard noted that there will be less monies available for substance abuse services if the reduction becomes effective.

Proposed Amendment of Rule 10A NCAC 27G .0504 – Local Management Entity Client Rights Committee and Provider Client Rights Committee

Glenda Stokes, Team Leader, Customer Services and Community Rights Team, Advocacy and Customer Service Section, gave the presentation on Rule 10A NCAC 27G .0504 – Local Management Entity Client Rights Committee and Provider Client Rights Committee. This rule

amends the current client rights committee rule, specifies LME/MCO Board requirements to oversee the committees, and includes provider committee duties/responsibilities. The amended language is necessary to update the rule to conform to current developments in Mental Health Transformation. This Rule received comments while in the comment period (September 4, 2012 – November 5, 2012). In response to comments received, references to LME have been updated to reflect LME/MCO and Licensed Independent Practitioners as well as Hospitals have been specifically exempted from the requirements of the rule. The rule is presented to the Commission for final action.

Ms. Stokes received the following comments and questions regarding Rule 10A NCAC 27G .0504 – Local Management Entity Client Rights Committee and Provider Client Rights Committee:

- Dr. Olley questioned the role/responsibility of the Committees. Ms. Stokes replied that the Committees would look at aggregate data as well as information related to appeals and complaints.
- Mr. Owen suggested that the Commission entertain a motion to table the rule given that the entire administrative structure of the mental health system has changed (e.g., from LMEs to MCOs) since the Commission last reviewed this rule.
- Ms. Cunningham stated this rule also deals with confidentiality at a time that we are going to be sharing data quite extensively. Ms. Cunningham suggested that the Commission be conscientious in allowing a client rights committee to have oversight or involvement at the provider level and consider how the data is going to be used as well as how compliance issues will be dealt with.
- Mr. Maybee stated that, from a provider's perspective there are a lot of administrative mandates in the rule. Mr. Maybee also stated that he would rather the committee be referred to as a "human rights" committee.
- Mr. Owen stated that MCOs cover a larger territory and asked how the client rights committees will be coordinated with a MCO that covers ten or more counties as opposed to a LME that might have covered three.
- Dr. Peggy Terhune noted two comments that were in the comment grid but not addressed during the presentation of the rule. The first comment was whether the rule should use the term human rights rather than client rights. The Division's response was client rights is the correct term as set forth in G.S. 122C-64. Dr. Terhune opined that the Commission was a rule making body and that it would be extremely easy to insert language that said "for purposes of this rule the term used for client rights shall be human rights". Ms. W. Denise Baker informed the Commission that there was a limit to options in some language based upon what the statute actually provides for and agreed to review the statute to see if human rights is also provided for. The second comment that Dr. Terhune felt was not sufficiently addressed was the expectation of the LME/Provider annual report. Dr. Terhune showed the Commission a stack of paperwork to demonstrate what the annual report would look like. Dr. Terhune explained that the report is lengthy and often must be submitted to more than one LME. Dr. Terhune stated that by leaving the language the way it currently is written and not attending to the comment made by Kim Keehn, during the public comment period, the Commission would be doing a disservice to the MCOs and providers.

Upon motion, second and unanimous vote, the Commission tabled Rule 10A NCAC 27G .0504 - Local Management Entity Client Rights Committee and Provider Client Rights Committee for further review by the Rules Committee.

The Commission then entertained a motion to convene a subcommittee to review Rule 10A NCAC 27G .0504 and make recommendations to the Rules Committee. This subcommittee

would be chaired by Dr. Terhune and consist of Anna Cunningham; Michael Maybee; Dr. Richard Brunstetter; Amie Brendle; Glenda Stokes; and W. Denise Baker.

Upon motion, second and unanimous vote, the Commission approved the creation of a subcommittee to review Rules 10A NCAC 27G .0504 – Local Management Entity Client Rights Committee and Provider Clients Rights Committee.

Selection of the Rules Committee Chair

Dr. Olley stated that he had one person express interest in serving as the chair to the Rules Committee, but that he has not had the opportunity to follow-up with this individual. Dr. Olley also stated that at this time the Commission does not have a lot of rules that need immediate attention.

Request for Information (RFI) for Recommendations to Assist the DHHS Division of Medical Assistance in Improving the Efficiency and Effectiveness of the State's Medicaid Program

Dr. Olley discussed the letter from Secretary Was seeking suggestions to improve the efficiency of the Medicaid program. The Commission received a copy of the RFI via email on February 15, 2013 asking that they review the letter and send any recommendations to W. Denise Baker, Steven E. Hairston, or himself. The original intent was to have the Commission issue a response and list of recommendations to the RFI; however, only two potential comments were submitted by members of the Commission. As such, Dr. Olley encouraged members to respond to the RFI as individuals as the Commission itself would not be submitting a response.

Public Comment

Elizabeth Ramos, Commission member, stated that she did not take advantage of the opportunity to ask Mr. Jarrard during his presentation, but she would be interested in knowing the process that arrived at the decision that it was the substance abuse clients whose funding was recently cut.

Ms. Anna Cunningham, Commission member, responded that the optional grants that are likely to be cut eventually will be money that comes from the Federal government to the State designated for substance abuse, but she believes that Mr. Jarrard was complete in his report and that there are other grants that will also be cut.

There being no further business, the meeting adjourned at 1:25 pm.